

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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FILE: B-194421

DATE: April 17, 1979

MATTER OF: Century Metal Parts Corp.

DLG00056

**DIGEST:**

1. [Protest against agency decision not to cancel invitation for bids] (IFB) timely filed with GAO within 10 days of protester's receipt of decision will not be considered because initial protest to agency was not filed within time limits prescribed in 4 C.F.R. § 20.2(b) (1978). Decision complained of responded to protest alleging deficiencies in IFB apparent prior to bid opening which was filed with agency after, rather than before, bid opening, as required by 4 C.F.R. § 20.2(b) (1978).
2. Protester's request for conference on merits of protest found to be untimely is denied because conference would serve no useful purpose.

Century Metal Parts Corp. (Century) has protested against the decision of the Department of the Army (Army), Communications and Electronics Materiel Readiness Command (CERCOM), Fort Monmouth, New Jersey, concerning the adequacy of the specifications in invitation for bids (IFB) No. DAAB-07-79-B-2832 for mast sections, National Stock Number (NSN) 5820-00-228-0244, in accordance with IAW CERCOM Drawing No. SC-DL-83061, Revision H and all associated drawings.

We assume from the protester's submission that Howe Machine & Tool Corp. (Howe) was the apparent low bidder at the bid opening held on January 22, 1979.

DLG00057

By letter to the Army dated February 9, 1979, counsel for the protester asserted that the IFB failed to specify which of four mast sections (antenna elements) [AB-21, -22, -23 and -24/GR]

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contained in the aforementioned drawing is being purchased. Century stated that it identified the appropriate mast section by reference to the NSN manuals, but that other bidders may not have the manuals and may have bid on different items or declined to bid because they were unable to determine which items were being purchased. Finally, Century suggested that the procuring activity review the IFB to determine whether it should be canceled and verify the item(s) upon which Howe bid.

The Army contracting officer responded by letter of March 12, 1979, explaining why he considered the specifications adequate.

Upon receipt of this letter on March 16, 1979, Century initiated the instant protest, which was received by our Office on March 22, 1979. Century reiterates its assertion that the IFB and drawings fail to identify the mast section being procured and contends that the ambiguous specification inhibited competition and precluded bidders from bidding on an equal basis, requiring that the solicitation be canceled.

The protester's objections to the contracting officer's decision not to cancel the solicitation pertain to the adequacy of the IFB specifications and drawings. Insofar as Century contends that the specifications were not sufficient to identify the Army's requirements, the protest alleges improprieties in the IFB which were readily apparent from an examination of the IFB before the bid opening on January 22, 1979.

Our Bid Protest Procedures, 4 C.F.R. § 20.2(b) (1978), require that:

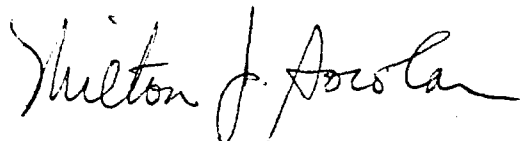
"(b)(1) Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening \* \* \* shall be filed prior to bid opening \* \* \*."

\* \* \* \* \*

"(3) The term 'filed' as used in this section means receipt in the contracting agency or in the General Accounting Office as the case may be."

A protest initially filed with the contracting agency and subsequently filed with our Office within 10 days of the protester's notification of the initial adverse agency action will be considered if the initial protest to the agency was filed in accordance with the time limits set forth in § 20.2(b) of our Bid Protest Procedures, quoted in pertinent part above. 4 C.F.R. § 20.2(a) (1978). Although Century's protest to our Office was timely filed within 10 days of the firm's receipt of the Army's March 12 letter declining to cancel the IFB, Century's initial protest was not filed with the Army in accordance with the time limits quoted above, a prerequisite to our consideration of the protest now before us. Century's February 9 letter was received by the Army on February 12, 1979, 16 working days after the January 22 bid opening. That the protester now objects to the same alleged specification deficiencies in the context of the Army's decision not to cancel the solicitation does not, in our opinion, change the fact that the grounds of the protests were and are untimely presented for resolution.

Century's request for a conference on the merits of the protest pursuant to 4 C.F.R. § 20.7(a) (1978) is denied because no useful purpose would be served in light of our determination regarding the untimeliness of the protest.



Milton J. Socolar  
General Counsel